**Section 2835.70 Waiver of Recovery of Overpayments Under Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), and Mixed Earner Unemployment Compensation (MEUC) Programs, and the First Week of Benefits Funded by the Federal Government**

a) The Department will waive recovery of any overpayment under the Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), and/or Mixed Earner Unemployment Compensation (MEUC) programs, and the first week of benefits funded by the federal government under any State or federal unemployment program, paid to a recipient if the Department determines that:

1) The overpayment was without fault on the part of the recipient; and

2) Recovery would be contrary to equity and good conscience.

b) For purposes of subsection (a), recovery of the overpayment will be considered to be against equity and good conscience if:

1) It would cause financial hardship to the person from whom it is sought;

2) Regardless of the recipient's financial circumstances, the recipient can show that, based on the overpayment or notice that a benefit payment would be made, the recipient has:

A) relinquished a valuable right; or

B) changed positions for the worse; or

3) Recovery would be unconscionable under the circumstances.

c) If the Department has previously recovered overpayment funds from a recipient and that recipient is granted a waiver pursuant to this Section, then that recipient shall be refunded those monies.

d) A claimant's request for a waiver of recovery of an overpayment under PUA, PEUC, or the first week of benefits funded by the federal government under any State or federal unemployment program, during the time period in which the FPUC program provided a supplement to the claimant's weekly benefit amount, and for which the FPUC supplemental amount is included in the overpayment amount, shall be treated as a request to waive recovery of the FPUC overpayment as well as recovery of the overpayment based on the PUA or PEUC programs, or first week of benefits funded by the federal government under any State or federal unemployment program. The determination or decision shall set forth the findings for allowing or denying waiver of recovery of the overpayment based on the PUA or PEUC programs, or the first week of benefits funded by the federal government and the FPUC overpayment separately, including the reason for the determination or decision, and when waiver is allowed, the time period of the waiver and the amount waived.

EXAMPLE: A claimant files a request for waiver and provides related information to waive a PUA overpayment from the week beginning June 7, 2020 through the week ending August 15, 2020. In this case, the FPUC program provided a $600 supplement to the claimant's weekly benefit amount for weeks between June 7, 2020 through the week ending July 25, 2020, and the FPUC supplements are included as part of the overpayment. The adjudicator determines that the claimant's request meets the criteria for a waiver of both PUA and FPUC, and states in the determination: the reasons for the waivers; that a waiver of the PUA overpayment is granted from the week beginning June 7, 2020 through the week ending August 15, 2020; that the FPUC waiver is granted from the week beginning June 7, 2020 through the week ending July 25, 2020; and the amount waived for each program.

e) When a claimant requests a waiver of recovery of an FPUC overpayment that supplemented a weekly benefit amount of an underlying unemployment program other than PUA and PEUC, the determination for waiver of recovery of the FPUC amount shall be made as provided by this Section. However, the determination shall indicate that waiver of recovery of the overpayment of benefits paid pursuant to the underlying unemployment program (other than PUA or PEUC) is not authorized by law and is denied.

f) When a claimant requests a waiver of recovery of an overpayment of the first week of benefits funded by the federal government under any State or federal unemployment program, the determination for waiver of recovery of the overpayment of that first week of benefits shall be made as provided in this Section. However, the determination shall indicate that waiver of recovery of the overpayment of benefits paid after the first week pursuant to the underlying unemployment program (other than PUA or PEUC) is not authorized by law and is denied.

g) A determination by an adjudicator for a waiver of recovery of a PUA, FPUC, PEUC, or MEUC overpayment, or an overpayment for the first week of benefits funded by the federal government under any State or federal unemployment program, overpayment may be based on the claimant's interview or written responses contained in a request form or questionnaire generated by the Department. An interview need not be conducted unless the adjudicator determines that more information is needed to make the determination.

h) A determination on a claimant's request for a waiver of recovery of a PUA, FPUC, PEUC, MEUC overpayment, or an overpayment for the first week of benefits funded by the federal government under any State or federal unemployment program, shall be subject to reconsideration and appeal as set forth in Sections 703, 800, 801, and 803 of the Unemployment Insurance Act [820 ILCS 405].

i) Notwithstanding the provisions of this Section, based upon authority provided by the U.S. Department of Labor the Department will waive recovery of the following overpayments under a single set of facts ("blanket waiver") without a claimant requesting a waiver:

1) When an individual is eligible for payment under an unemployment benefit program for a given week, but through no fault of the individual that individual was paid incorrectly under either the PUA or PEUC program at a higher weekly benefit amount (WBA); or

2) Specific to PUA, when, through no fault of the individual that individual was paid a minimum WBA higher than the minimum WBA set by federal law and U.S. Department of Labor guidance.

(Source: Added at 45 Ill. Reg. 8310, effective June 23, 2021)